

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

Petition of Cablevision of New Jersey, LLC)	
For a Determination of Effective Competition in)	CSR-8881-E
)	PSID No.: 007311
Tenafly Borough, NJ)	
CUID (NJ0217))	MB Docket No.: 14-94
)	
_____)	

To: Chief, Media Bureau

**PETITION FOR LEAVE TO SUPPLEMENT THE
COMMENTS OF THE NEW JERSEY DIVISION OF RATE COUNSEL IN
OPPOSITION TO**

**CABLEVISION OF NEW JERSEY, LLC’S PETITION FOR A DETERMINATION
OF EFFECTIVE COMPETITION IN THE SYSTEM-WIDE FRANCHISE AREA
OF THE BOROUGH OF TENAFLY, BERGEN COUNTY, NEW JERSEY**

I. INTRODUCTION AND SUMMARY

Pursuant to *C.F.R.* Sections 76.6(a)(6) and 76.7(d) of the Commission’s rules,¹ the New Jersey Division of Rate Counsel (“Rate Counsel”) hereby petitions for leave to supplement its August 7, 2014, (“Opposition Comments”) in opposition to Cablevision of New Jersey, LLC’s, (“Cablevision”) petition for a determination of effective competition in the Bergen System-Wide Franchise Area which includes the Borough of Tenafly, Bergen County, New Jersey (“Petition”).

¹ 47 C.F.R. § 76.6(a)(6) and § 76.7(d).

Cablevision's Petition relies on the Local Exchange Carrier ("LEC") test as the exclusive basis for a grant of effective competition. In its Petition, Cablevision submits that the test is met due to the presence of Verizon New Jersey, Inc. ("Verizon), a qualifying LEC offering comparable video programming services to subscribers via a video network that overlaps Cablevision's Bergen System-Wide Franchise Area, which includes Tenafly Borough.² In support, Cablevision states that Verizon has conveyed certified build-out information to the local franchising authority ("BPU") indicating that it has at least a 60% built-out in the Bergen System-Wide Franchise Area, providing comparable video programming as Cablevision and therefore under the LEC Test and the *Cable Reform Order*, the area including the Borough of Tenafly is subject to effective competition.³

II. CABLEVISION FAILS TO MEET THE LEC TEST AND STANDARDS UNDER 47 C.F.R. § 76.905 FOR IDENTIFICATION AS A CABLE SYSTEM SUBJECT TO EFFECTIVE COMPETITION

In its Opposition Comments, Rate Counsel provided the Bureau with a letter dated August 5, 2014, from the BPU provided pursuant to an OPRA request, confirming that a search of its records indicated the BPU did not have any document "confirming whether or not Verizon N.J. had notified the Board or Office of Cable Television (OCTV) that it had passed 60% of the homes in the Borough of Tenafly, N.J." ... "Further, staff is not aware of any responsive documents that have been filed with the Board or OCTV by Verizon NJ in response to Rate Counsel's request."⁴

In addition, to further demonstrate that the Borough of Tenafly is not subject to effective competition, Rate Counsel provided the Bureau with an Effective Competition

²/ Petition at pp. 1-2.

³/ Petition at pp. 1, 5 – 7 and at 14.

⁴/ Rate Counsel Exhibit A, attached to Rate Counsel comments dated August 7, 2014.

Tracking Report (“ECTR”) provided by the Satellite Broadcasting and Communications Association showing the DTH satellite penetration in Tenafly Borough as zero.⁵

Herein, Rate Counsel reaffirms and incorporates by reference the arguments made by Rate Counsel in its Opposition Comments, and hereby supplements that filing to include a response provided to Rate Counsel by Verizon N.J. which confirms that Verizon N.J. is not currently offering its video programming services in the Borough of Tenafly, a Borough within Cablevision’s Bergen System-Wide Franchise Area, for which Cablevision seeks a finding of effective competition.⁶ Thus, presently Cablevision is the sole and exclusive provider of video and cable programming in the Borough of Tenafly.

Based on the latest information provided by Rate Counsel herein, it is clear that Cablevision fails to meet the LEC test under § 543(1)(1)(D). Therefore, the Bureau should deny Cablevision’s pending Petition for Determination of Effective Competition in the Borough of Tenafly, part of Cablevision’s Bergen System-Wide Franchise Area.

Respectfully submitted,

STEFANIE A. BRAND, DIRECTOR
NEW JERSEY DIVISION OF RATE COUNSEL

By: /s/ Christopher J. White
Christopher J. White, Deputy Rate Counsel
On Behalf of Rate Counsel

Dated: August 15, 2014.
cc: Service List

⁵/ Rate Counsel Exhibit B, *id.*

⁶/ See attached hereto, Rate Counsel Exhibit D. Rate Counsel notes that Mr. Jeff J. Lahm, is a Regulatory Consultant currently employed at Verizon NJ Telecommunications, and handles matters concerning Verizon NJ’s FiOS deployment in the New York/New Jersey metropolitan area. See profile at: LinkedIn at: www.linkedin.com/pub/jeff-lahm/21/b07/476.

Certificate of Service

I, Gabrielle Pichler, hereby certify that on this 15 day of August 2014, a copy of Rate Counsel's Supplemental Comments in Opposition to Cablevisions Petition for Determination of Effective Competition was sent via US Mail, Hand Delivery, and/or Email, as noted, to the following individuals:

Marlene Dortch
Secretary
FCC
445 12th Street, SW
Washington, DC 20554
US Mail

William Lake
Chief, Media Bureau
FCC
445 12th Street, SW
Washington, DC 20554
US Mail

Steve Broecker
Sr. Deputy Policy Div. Chief
Media Bureau
FCC
445 12th Street, SW
Washington, DC 20554
US Mail

Nancy Murphy
Associate Bureau Chief, Media Bureau
FCC
445 12th Street, SW
Washington, DC 20554
US Mail

Steve Garner
Media Bureau
FCC
445 12th Street, SW
Washington, DC 20554
US Mail

Kristi Izzo
Secretary
NJ Board of Public Utilities
44 South Clinton Ave., 9th Floor
PO Box 350
Trenton, NJ 08625-0350
Hand Delivery and Email

Alexander Maltas
V.P., Legal & Regulatory Affairs
Cablevision Systems Corp.
1099 New York Ave., NW
Suite 675
Washington, DC 20001
US Mail

Christopher J. Harvie
Mintz, Levin, Cohn, Ferris, Glovsky, & Popeo, P.C.
701 Pennsylvania Ave., NW, Suite 900
Washington, DC 20004
US Mail and Email

Elana Shapochnikov
Cablevision
1111 Stewart Avenue
Bethpage NY 11714
US Mail and Email

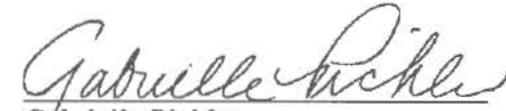
Adam Falk
Cablevision
1111 Stewart Avenue
Bethpage NY 11714
US Mail and Email

Lawanda Gilbert
NJ Board of Public Utilities
44 South Clinton Ave., 9th Floor
PO Box 350
Trenton, NJ 08625-0350
Hand Delivery and Email

William Furlong
NJ Board of Public Utilities
44 South Clinton Ave., 9th Floor
PO Box 350
Trenton, NJ 08625-0350
Hand Delivery and Email

Geoffrey R. Gersten, Esq.
Dept. of Law and Public Safety
Division of Law
124 Halsey Street
PO Box 45029
Newark, NJ 07101-45029
US Mail and Email

Mayor and Council
Borough of Tenafly
100 Riveredge Road
Tenafly, NJ 07670
US Mail


Gabrielle Pichler